

**Supporting Statement for
30 CFR Part 227—Delegation to States
(OMB Control Number 1010-0088)
(Expiration Date: August 31, 2003)**

A. Justification

1. What circumstances make this collection of information necessary?

The Secretary of the U.S. Department of the Interior (DOI) is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The Minerals Management Service (MMS) performs the royalty management functions and assists the Secretary in carrying out DOI's Indian trust responsibility.

The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA), Public Law 104-185, as corrected by Public Law 104-200, amends the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 et seq. (Attachment 1). Prior to enactment of RSFA, section 205 of FOGRMA, 30 U.S.C. 1735, provided for the delegation of audits, inspections, and investigations to the States. RSFA amendments to section 205 of FOGRMA provided that other Federal royalty management functions may also be delegated to requesting States. RSFA authorized the following Federal royalty management functions to States:

- a. Conducting audits and investigations;
- b. Receiving and processing production and royalty reports;
- c. Correcting erroneous report data;
- d. Performing automated verification; and
- e. Issuing demands, subpoenas (except for solid mineral and geothermal leases), orders to perform restructured accounting, and related tolling agreements and notices to lessees or their designees.

Since the passage of RSFA and publication of the final rules on August 12, 1997, no States have proposed a delegation agreement to assume additional royalty management functions. Currently, 10 States have delegation agreements to perform audits and investigations, which is the same function previously authorized under FOGRMA in 1982. When a State performs any of the delegated functions under the 30 CFR 227 regulations (Attachment 2), the State also assumes the burden of providing various types of information to MMS for contract administration and oversight. This information, provided to MMS in the course of performing the work of the delegated functions, is the focus of this information collection.

2. How, by whom, and for what purpose will the information be used?

In accordance with RSFA, and to properly administer the delegation of the functions to the requesting States, we must collect pertinent information from industry and States to ensure that this program continues to operate efficiently and effectively. Therefore, a State will have to submit an application requesting to perform these delegable functions.

Royalty and production reporters send all financial and production reports and royalty payments to MMS's Minerals Revenue Management (MRM) office. We verify the accuracy of the reports and payments prior to disbursing the funds to States, Indians, the U.S. Treasury, and other Federal agencies. If States choose to participate in the delegable function of receiving and processing financial and production reports, payors will have to send these reports to each participating State on the Federal leases within that State and to MRM for the remaining Federal leases. Although payments will still be made to MRM, individual checks or additional information on wire transfers will have to be submitted to identify checks associated with reports sent to a State versus reports sent to MRM.

Currently, error correction, automated verification, issuing demand letters, and billing actions are handled by MRM. If States choose to participate in the delegable functions, reporters may have to work with and provide data to various contacts in the participating State(s) and in MRM.

Also, there are certain measurements and standards that MRM is held accountable to, and we must file reports to outside entities. States choosing to participate in any delegable function will be held to these same measurements and standards and, therefore, will have to provide data to document the work that they are doing.

Since this information collection was initially approved, no State has requested to perform any royalty management delegable function other than to conduct audits.

3. Does the collection involve the use of information technology, does it reduce the burden, and to what extent?

Currently, the delegation proposals, quarterly vouchers, progress reports, and work plans are submitted via paper. The volumes are not large enough to warrant electronic submission. However, we estimate that 25 percent of the information is submitted via E-mail and faxes. Therefore, under MMS's Government Paperwork Elimination Act plan, this information collection is not cost effective to convert to electronic format. If States request additional delegations related to royalty reporting and production by industry, then this information collection will be revised and amended to reflect this situation.

4. Is the information duplicated by any other Federal agency, and can similar information be used or modified for this collection?

The information collected (royalty reports, production reports, related documents, measurements, and statistics) is unique. There are no other Federal agencies collecting this information. If there

is any duplication of information between State and Federal reports, it will be reviewed. Duplication will be eliminated, if at all possible.

5. What is the agency doing to minimize the burden on small businesses or other small entities?

This information collection and the Delegations to States have no effect on small businesses or small entities. In keeping with our overall royalty management and compliance mission, MMS provides periodic training, reporter handbooks, and Internet access to current information on our Web site. We also provide electronic reporting, which should reduce the burden on industry. However, we continue to offer the option of paper reporting for small businesses who show that conversion to electronic reporting is a hardship. We also provide toll-free telephone assistance to help all respondents in complying with current requirements.

6. What are the consequences to the Federal program or policy activity if the information is not collected or is collected less frequently; and are there any technical or legal obstacles to reducing the burden?

If this collection is not conducted or is conducted less frequently, we could not administer and delegate the cooperative audit functions to individual States as prescribed by 30 CFR 227. There are no technical or legal obstacles to reducing the burden.

7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2) requiring respondents to: (i) report more often than quarterly, (ii) prepare written responses in fewer than 30 days after receipt, (iii) submit more than an original and two copies of any document, or (iv) retain records for more than 3 years?

There are special circumstances with respect to (i) and (iv) as follows:

- Reporting more often than quarterly—Section 227.112 prescribes quarterly vouchers to be submitted although a few States voluntarily prefer to report monthly.
- Records retention for more than 3 years—Normally, records must be maintained for a 7-year period unless appeals or litigation requires longer retention.

There are no special circumstances with respect to 5 CFR 1320.5(d)(2) (v) through (vii). However, in (viii), MRM and any State choosing to participate in a delegable function will keep confidential, under the Freedom of Information Act, the Trade Secrets Act, and relevant Executive Orders, any and all data submitted that is privileged, confidential, or otherwise exempt.

8. What efforts did the agency make to consult with the public and a representative sample of respondents?

As required in 5 CFR 1320.8(d), MMS published a 60-day review and comment notice in the *Federal Register* on April 8, 2003 (68 FR 17073) (Attachment 3). We received no comments in response to this notice.

9. Will payments or gifts be provided to respondents?

When quarterly vouchers are submitted, MMS will reimburse States for eligible costs of performing audits and investigations.

10. What assurance of confidentiality is provided to respondents?

Commercial or financial information provided to MMS relative to minerals removed from Indian leases may be proprietary. Trade secrets and proprietary and other information are protected in accordance with standards established by FOGRMA of 1982, as amended (30 U.S.C. 1733), the Freedom of Information Act (5 U.S.C. 552(b)(4)), and Department regulations (43 CFR 2). The Indian Minerals Development Act of 1982 (25 U.S.C. 2103) provides that all information related to any Indian minerals agreement covered by the Act in the possession of the Department shall be held as privileged proprietary information. Storage of proprietary information and access to it is controlled by strict security measures.

11. Does the information collected include any questions of a sensitive nature?

None of the information requested is considered sensitive.

12. What is the estimated reporting and recordkeeping “hour” burden?

The annual reporting burden is estimated at 4,179 hours. We expect approximately 946 responses from 10 States. Currently, 10 States have delegation agreements to perform audits and investigations. These 10 States are California, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, Texas, Utah, and Wyoming. We estimate that one of the 10 States per year may request to perform the four additional functions authorized by RSFA.

Refer to the burden chart below for a breakdown of the burden hours by CFR section. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Using an average cost of \$50 per hour, the total cost to respondents is \$208,950. There are no additional recordkeeping costs. The Federal Government, out of current appropriations, will reimburse eligible costs for administration and performance of work under the delegation agreements.

It should be noted that since the passage of RSFA and publication of the final rule on August 12, 1997, no States have proposed a delegation agreement to assume additional royalty management

functions. Since the initial OMB approval for this information collection, we have gained more experience, and can now base our estimates on more realistic information. As a result, we have significantly reduced our burden estimates to States. Additional burdens on industry will occur only when and if a State proposes to assume the functions of (1) receiving and processing production and royalty reports; (2) correcting erroneous report data; (3) performing automated verification; and (4) issuing demands, subpoenas, orders to perform restructured accounting; and related tolling agreements and notices to leases or their designees. For this information collection, we estimated the burden hours for industry assuming that one of the 10 States currently performing audits will request a delegation agreement to perform the four additional royalty management functions.

State Respondent Annual Burden Hour Chart

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
227.103; 227.107; 227.109; 227.110(a), (b)(1) and (2), (c), (d), and (e); 227.111(a) and (b); 227.805	If you want MMS to delegate royalty management functions to you, then you must submit a delegation proposal to the MMS Associate Director for Minerals Revenue Management. MMS may extend the 90-day period with your written consent. You may submit a new delegation proposal at any time following a denial . . . and upon request, [MMS] will send a copy of the delegation proposals to trade associations to distribute to their members. . . You may ask MMS to renew the delegation for an additional 3 years no less than 6 months before your 3-year delegation agreement expires. You must submit your renewal request to the MMS Associate Director for Minerals Revenue Management . . . You may submit a new renewal request any time after denial. After the 3-year renewal period for your delegation agreement ends, if you wish to continue performing one or more delegated functions, you must request a new delegation agreement from MMS . . . If you do not request a hearing . . . any other affected person may submit a written request for a hearing to the MMS Associate Director for Minerals Revenue Management. Before the agreement expires, if you wish to continue to perform one or more of the delegated functions you performed under the expired agreement, you must request a new delegation agreement meeting the requirements of this part and the applicable standards. If you want to perform royalty management functions in addition to those authorized under your existing agreement, you must request a new delegation . . . After your delegation agreement is terminated, you may apply again for delegation by beginning with the proposal process	200	3	600
227.112(d) and (e)	At a minimum, you must provide vouchers detailing your expenditures quarterly during the fiscal year; You must maintain adequate books and records to support your vouchers.	4	80	320

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
227.200(a), (b)(1), (2), (3), (4), and (5); (c), and (d)	. . . You must seek information or guidance from MMS regarding new, complex, or unique issues. Provide complete disclosure of financial results of activities; Maintain correct and accurate records of all mineral-related transactions and accounts; Maintain effective controls and accountability; Maintain effective system of accounts . . . ; Maintain adequate royalty and production information . . Assist MMS in meeting the requirements of . . . GPRA; Maintain all records you obtain or create. . .	200	10	2,000
227.200(e) and (h); 227.801(a); 227.804	Provide reports to MMS about your activities under your delegated functions (progress reports) . . . you must provide periodic statistical reports to MMS summarizing the activities you carried out . . . ; Help MMS respond to requests for information from other Federal agencies, Congress, and the public . . . You may ask MMS for an extension of time to comply with the notice. In your extension request you must explain why you need more time . . . You may request MMS to terminate your delegation at any time by submitting your written notice of intent 6 months prior to the date on which you want to terminate . . .	3	80	240
227.200(f); 227.401(e) 227.601(d)	Assist MMS in maintaining adequate reference, royalty, and production databases; access well, lease, agreement, and reporter reference data from MMS, and provide updated information to MMS. . . /access well, lease, agreement, and production reporter or royalty reporter reference data from MMS and provide updated information to MMS5	250	125
227.200(g)	Develop annual work plans . . .	60	10	600
227.400(a) (4), (6) 227.401(d)	If you request delegation of either production report or royalty report processing functions, you must perform . . . timely transmitting production report or royalty report data to MMS and other affected Federal agencies; . . . Providing production data or royalty data to MMS and other affected Federal agencies . . . Timely transmit required production or royalty data to MMS and other affected Federal agencies5	250	125
227.400(c)	You must provide MMS with a copy of any exceptions from reporting and payment requirements for marginal properties and any alternative royalty and payment requirements for unit agreements and communitization agreements you approve.	20	1	20
227.501(c)	Submit accepted and corrected lines to MMS to allow processing in a timely manner5	250	125

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
227.601(c)	To perform automated verification or production reports or royalty reports, you must: Maintain all documentation and logging procedures . . .	2	12	24
Total			946	4,179

13. What is the estimated reporting and recordkeeping “non-hour” cost burden of the collection of this information, excluding any costs identified in Items 12 and 14?

The non-hour cost burden for one State to assume the four additional functions authorized by RSFA is estimated at \$60,000 for electronic processing and imaging capability. Annualized over 3 years, the cost is \$20,000.

14. What is the estimated annualized cost to the Federal Government?

We estimate that the Federal Government will spend 7,419 hours annually to analyze, review, and handle the required information. Based on \$50 per hour, the annualized cost to the Federal Government is \$370,950.

MMS Cost Breakdown Per CFR Section

30 CFR Section	MMS Burden Hours per Response	Annual Number of Responses	Total MMS Burden Hours	MMS Costs
227.103; 227.107; 227.109; 227.110(a), (b)(1) and (2), (c), (d), and (e); 227.111(a) and (b); 227.805	400	3	1,200	\$60,000
227.112(d) and (e)	2	80	160	\$8,000
227.200(a), (b)(1), (2), (3), (4), and (5); (c), and (d)	500	10	5,000	\$250,000
227.200(e) and (h); 227.801(a); 227.804	3	80	240	\$12,000
227.200(f); 227.401(e); 227.601(d)	.5	250	125	\$6,250
227.200(g)	40	10	400	\$20,000
227.400(a)(4), (6); 227.401(d)	.5	250	125	\$6,250
227.400(c)	20	1	20	\$1,000
227.501(c)	.5	250	125	\$6,250
227.601(c)	2	12	24	\$1,200
Totals		946	7,419	\$370,950

15. Is the agency requesting any program changes or adjustments reported in Items 13 and 14 of the Form OMB 83-I?

The current OMB inventory is 210,400 hours. In Item 13 of Form OMB 83-I, we reduced the burden by 206,221 hours to 4,179 hours. We adjusted the burden hours based on the assumption that only one State would apply for a delegation agreement to perform royalty management functions, and we re-estimated the number of respondents and responses received per year. In Item 14 of Form OMB 83-I, the annual cost burden is reduced from \$80,000 to \$20,000. This reduction is a result of reducing the number of States from four to one that would apply for delegable functions (\$60,000 annualized over 3 years).

16. Are there plans for tabulation and publication of the results of the information collection?

The data collected will not be tabulated and published for statistical use.

17. Is the agency seeking approval to not display the expiration date?

No. We will display the expiration date of OMB's approval.

18. Is the agency requesting exceptions to the certification statement in Item 19 of Form OMB 83-I?

To the extent the topics apply to this collection of information, we are not requesting exceptions to the "Certification of Paperwork Reduction Act Submissions."

B. Collections of Information Employing Statistical Methods

This section is not applicable. We will not employ statistical methods in this information collection.